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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,626	02/01/2001	Motomu Fukasawa	865.4528	3044
5514	7590	07/13/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			REIS, TRAVIS M	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2859	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,626

Applicant(s)

FUKASAWA, MOTOMU

Examiner

Travis M Reis

Art Unit

2859

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/12/4 & 6/14/4.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6, 11, 12 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10, 13, 14, 19, 20, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 15 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-10, 13-14, 19, 20, 22, & 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushita (JP 11006809A).

Matsushita discloses an apparatus (1) & system for a recoverable and reusable lens unit/video camera (USE section, line 1) with an environmental history indicator means /moisture sensitivity film (4) mounted inside said apparatus, said film and apparatus together capable of being dismounted and further said film not interfering with the operation of said unit, said unit includes an optical member and said film has a property which varies with respect to humidity over time (Figure 1)(NOVELTY section lines 1-4, ADVANTAGE section, lines 1-3). Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. the variable property being determined by an inspection device, etc.) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. ***Ex parte Masham***, 2 USPQ2d 1647 (1987).

With respect to the preamble of the claims 1-4, 7-10, & 13-14, 19, 20, 22, & 23: the preamble of the claim has not been given any patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. ***Kropa v. Robie***, 88

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USPQ 478 (CCPA 1951).

Response to Arguments

3. With respect to applicant's arguments that the current state of the indicator means can be used to determine the history of environmental conditions to which the unit is subjected and the degree of the unit; the degree of the unit's deterioration can be detected by examination of the current condition of the indicator means; these arguments have been considered but are not persuasive since it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant only claims the limitation "wherein said environmental history indicator means maintains the state of deterioration of the property" in the independent claims. Applicant appears to argue that the invention of Masushita does not disclose a history, meaning a record, of deterioration.

4. With respect to applicant's arguments that Matsushita does not reflect the history of the environmental conditions and does not disclose maintains the state of deterioration of a property thereof that varies in accordance with the history of the conditions in the environment in which that apparatus was used, these arguments have been considered but are not persuasive since the Examiner must interpret, in a broad sense, the claim language referred to above as meaning that the Masushita invention maintains the state of deterioration of the device up to the latest assesment of the sensor and maintains this property until the next property change, which becomes the new maintained property, this in turn means that the sensor has a history of environmental conditions, as detailed in paragraph 2 above.

Allowable Subject Matter

5. Claims 15 & 17 are objected to as being dependent upon a rejected base claim, but

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would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

With reference to claims 15 & 17, the prior art of record does not disclose or clearly suggest an apparatus with an optical filter having a light transmitting property which varies according to any environmental history with respect to temperature and humidity, in combination with the remaining limitations in the claims.

7. The following is an examiner's statement of reasons for allowance:

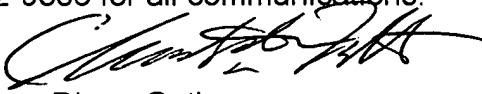
With reference to claims 5, 6, 11, 12, & 21, the prior art of record does not disclose or clearly suggest an apparatus with an optical filter having a light transmitting property which varies according to any environmental history with respect to temperature and humidity, in combination with the remaining limitations in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Inquiries concerning this, or earlier, communications from the examiner should be directed to Travis M Reis (571) 272-2249; 8--5 M--F. If unreachable, contact the examiner's supervisor, Diego Gutierrez (571) 272-2245. The fax for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859


Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

CHRISTOPHER W. FULTON
PRIMARY EXAMINER

tmr
July 8, 2004